

Message Text

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ACTION L-03

INFO OCT-01 ARA-10 ISO-00 /014 W
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R 142035Z MAY 76

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 5659

INFO DEPT OF JUSTICE WASHDC

USIA WASHDC

UNCLAS BRASILIA 4286

JUSTICE FOR BRUNO RISTAW AND L/M FOR SWHILDEN

E. O. 11652: N/A

TAGS: AFSP, BR

SUBJECT: LABOR SUIT - A.M. VEIGA HANRIOT

REF: DEPT OF JUSTICE CABLE 231425Z OF JAN 76; STATE 088805

THE EMBASSY HAS REVIEWED ITS FILES ON THE SUBJECT CASE AND HAS BEEN ABLE TO ESTABLISH THE FOLLOWING CHRONOLOGY OF EVENTS ON MS. HANRIOT LABOR SUIT AGAINST USIS:

1. THE SUIT DATES BACK TO 1969. THE ATTORNEY WHO REPRESENTED THE USG IN THIS CASE AT THE BEGINNING WAS DR. EDUARDO JARDIM FROM RIO DE JANEIRO, ASSISTED BY DR. FARID SIMAO, FROM BELO HORIZONTE. MS. HANRIOT'S CLAIMS WERE DESCRIBED IN BRASILIA 0424 OF JANUARY 16, 1976.

2. DR. JARDIM FILED A PETITION TO THE LABOR COURT CLAIMING ITS INCOMPETENCE IN VIEW OF THE PRINCIPLE OF IMMUNITY OF JURISDICTION OF FOREIGN STATES. HE FURTHER CLAIMED THAT IF BRAZILIAN COURTS SHOULD DECIDE THAT THEY WERE COMPETENT, THE COMPETENT COURT TO HEAR THE CASE WOULD BE A FEDERAL COURT (JUSTICA FEDERAL), IN ACCORDANCE WITH THE BRAZILIAN CONSTITUTION.

3. ON DECEMBER 19, 1969 THE 4TH. LABOR COURT IN BELO HORIZONTE FOUND ITSELF INCOMPETENT, AS REPORTED IN RIO DE JANEIRO 172, OF JANUARY 9, 1970. HOWEVER RIO DE JANEIRO 172 DID NOT REPORT THAT

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THE LABOR COURT IN BELO HORIZONTE ALSO EXPRESSED THE OPINION THAT

THE FEDERAL COURT SHOULD HEAR THE CASE. THE COURT DOCKET WAS THEN FORWARDED TO THE 2ND. FEDERAL COURT IN BELO HORIZONTE.

4. ON APRIL 27, 1970 THE 4TH. FEDERAL COURT ALSO DECIDED THAT IT HAD NO JURISDICTION OVER THE CASE:

5. IN VIEW OF THE NEGATIVE CONFLICT OF JURISDICTION BETWEEN THE LABOR AND THE FEDERAL COURTS, THE FEDERAL COURT OF APPEALS (TFR) IN BRASILIA WAS CALLED UPON TO RESOLVE THE CONFLICT.

6. ON APRIL 12, 1973 THE FEDERAL COURT OF APPEALS DECIDED THAT LABOR COURTS ARE THE COMPETENT COURTS TO DECIDE LABOR QUESTIONS AGAINST FOREIGN GOVERNMENTS, INCLUDING THE QUESTION OF IMMUNITY OF JURISDICTION.

7. ON FEBRUARY 2, 1975 THE 4TH. LABOR COURT IN BELO HORIZONTE REEXAMINED THE CASE, AND DECIDED AGAIN THAT THE USG WAS IMMUNE FROM THE JURISDICTION OF BRAZILIAN LABOR COURTS.

8. ON MARCH 12, 1975 MS. HANRIOT TINA APPEALED THE DECISION OF THE 4TH. LABOR COURT TO THE REGIONAL LABOR COURT (TRT). THE EMBASSY WAS OFFICIALLY NOTIFIED ABOUT THE APPEAL IN THE STATE OF MINAS GERAIS OFFICIAL GAZETTE OF DECEMBER 18, 1975. IN A MEMO TO THE EMBASSY DATED DECEMBER 23, 1975 THE USIS BRANCH PUBLIC AFFAIRS OFFICER IN BELO HORIZONTE QUOTED THE SECRETARY OF THE LABOR COURT IN THAT CITY AS SAYING THAT THE TRT DECISION SHOULD BE MADE BEFORE APRIL 1976. TO DATE, HOWEVER, NO WORD ON THE RESULT OF THE APPEAL HAS REACHED THE EMBASSY.

9. THE REASON WHY THE EMBASSY AND USIS WISH TO RETAIN ATTORNEYS AMARAL AND PIEPER TO FOLLOW THIS CASE IS THAT IT IS NECESSARY FOR THE EMBASSY TO KNOW WHEN THE APPEAL WILL BE TRIED, SO THAT IT MAY APPEAL THE DECISION BY THE TRT TO THE SUPERIOR LABOR COURT WITHIN THE TIME LIMIT ESTABLISHED BY BRAZILIAN LAWS (8 DAYS) IN CASE OF ADVERSE JUDGMENT AGAINST THE USG.

IT MIGHT ALSO BE CONSIDERED DESIRABLE FOR THE USG TO ADDRESS THE TRT IN WRITING OR ORALLY DURING THE TRIAL OF THE APPEAL, IN ORDER TO REINFORCE THE US POSITION. ATTORNEYS AMARAL AND PIEPER'S FEE FOR SUCH SERVICE, EXCLUDING A POSSIBLE FUTURE APPEAL TO UNCLASSIFIED

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THE SUPERIOR LABOR COURT, WOULD BE FIVE HUNDRED DOLLARS. AUTHORIZATION TO RETAIN THEM FOR THIS CASE IS, THEREFORE, URGENTLY NEEDED. CRIMMINS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 14 MAY 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BRASIL04286
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760188-0815
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760555/aaaabuxj.tel
Line Count: 111
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 STATE 88805
Review Action: RELEASED, APPROVED
Review Authority: CollinP0
Review Comment: n/a
Review Content Flags:
Review Date: 16 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 JUN 2004 by wolfsd>; APPROVED <25 JAN 2005 by CollinP0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LABOR SUIT - A.M. VEIGA HANRIOT
TAGS: AFSP, BR
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006